



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

American Zurich Insurance Co

MFDR Tracking Number

M4-16-1069-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 21, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The only documentation Memorial Compounding Pharmacy has is that our facility called bill review and confirmed receipt of bill, but we never received the EOB."

Amount in Dispute: \$747.12

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please see the EOBs. Carrier contends that the drug(s) at issue required preauth. Preauth was not obtained."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 28, 2015	Compounding Fee, Versapro Cream Base, Ethoxy Diglycol, Mefenamic Acid, Bupivacaine, Meloxicam, Flurbiprofen, Baclofen	\$747.12	\$747.12

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.540 sets out the requirements for use of the closed formulary for claims subject to certified networks.
3. 28 Texas Administrative Code §134.503 sets out the pharmacy fee guidelines

4. Neither party presented an explanation of benefits related to the services in dispute.

Issues

1. Is the carrier's position statement supported?
2. What is the rule applicable to reimbursement?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The respondents states, "Carrier contends that the drug(s) at issue required preauth. Preauth was not obtained." Review of TxComp finds "COVENTRY WORKERS' COMP NETWORK" listed as the claimants' network provider. Review of the Division Pharmacy Network Information finds the carrier American Zurich Insurance Company is listed as having a relationship with claimants' network provider. Therefore per 28 Texas Administrative Act §134.540(b) which states in pertinent part,

Preauthorization for claims subject to the Division's closed formulary. Preauthorization is only required for:

- (1) drugs identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;
- (2) any compound that contains a drug identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates; and
- (3) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

The service in dispute is a compound medication containing Compounding fee, Versapro Cream, Ethoxy Diglycol, Bupivacaine HCL, Baclofen, Mefenamic Acid, Meloxicam, Flurbiprofen, , therefore §134.503 (b)(1)(B) applies.

Review of Appendix A, ODG Workers' Compensation Drug Formulary finds that the services in dispute were not listed as an "N" drug nor were they found to be investigational or experimental.

Pursuant to Rule 134.503(b)(1)(A) the Division concludes that preauthorization was not required for the service in dispute. For that reason, the division finds the carrier's preauthorization denial is not supported.

2. 28 Texas Administrative Code §134.530 (g) states

Except as provided in subsection (f)(1) of this section, drugs that do not require preauthorization are subject to **retrospective review** [emphasis added] for medical necessity in accordance with §133.230 of this title (relating to Insurance Carrier Audit of a Medical Bill) and §133.240 of this title (relating to Medical Payments and Denials), and applicable provisions of Chapter 19 of this title.

- (1) Health care, including a prescription for a drug, provided in accordance with §137.100 of this title is presumed reasonable as specified in Labor Code §413.017, and is also presumed to be health care reasonably required as defined by Labor Code §401.011(22-a).
- (2) In order for an insurance carrier to deny payment subject to a retrospective review for pharmaceutical services that are recommended by the division's adopted treatment guidelines, §137.100 of this title, the denial must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established under Labor Code §413.017.

The respondent provided and Adverse Determination Notice – Network for the claimant involved in this dispute. However, the healthcare provider listed on this notice is not the requestor in this dispute. Also, the date of this notice is April 20, 2015. The date of service in this dispute is January 28, 2015. The Division finds the requestor provided no evidence to support that a retrospective review that complies with Chapter

19, subchapter U was conducted **for the service in dispute**; nor did the carrier assert a denial of payment due to an adverse determination of medical necessity on the explanation of benefits **for the service in dispute** as required pursuant to Rule §133.240(q). The service in dispute will be reviewed per applicable rules and fee guidelines.

3. 28 Texas Administrative Code §134.503(c) states,

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

(A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;

(C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection;

The maximum allowable reimbursement will be calculated as follows:

Date of Service	Service in Dispute	Units	Amount Billed	MAR
January 28, 2015	Versapro Cream	44.82	\$112.05	$\$3.20000 \times 45 \times 1.09 = \156.96
January 28, 2015	Ethoxy Diglycol	3	\$1.03	$\$0.34200 \times 3 \times 1.25 = \1.28
January 28, 2015	Bupivacaine HCL	1	\$48.02	$\$45.60000 \times 1 \times 1.25 = \57.00
January 28, 2015	Baclofen	3	\$102.60	$\$35.63000 \times 3 \times 1.25 = \133.61
January 28, 2015	Mefenamic Acid	2	\$222.48	$\$123.60000 \times 2 \times 1.25 = \309.00
January 28, 2015	Meloxicam	1	\$35.04	$\$194.670000 \times 1 \times 1.25 = \243.34
January 28, 2015	Flurbiprofen	6	\$210.90	$\$36.58000 \times 6 \times 1.25 = \274.35
January 28, 2015	Compounding Fee		\$15.00	a single compounding fee of \$15 per prescription
		Total	\$747.12	\$1,175.54

The total allowable for the services in dispute is \$1,175.54. The requestor is seeking \$747.12. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$747.12.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$747.12 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	_____ January 28, 2016 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.